

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE**

Thomas P. Cossette

v.

Civil No. 08-cv-21-JL

State of New Hampshire<sup>1</sup>

**O R D E R**

Petitioner Thomas P. Cossette has filed a submission (document no. 5), which I liberally construe as a request to lift the stay of federal proceedings and review his petition filed pursuant to 28 U.S.C. § 2254. See Rule 4 of the Rules Governing § 2254 Proceedings ("Habeas Rules") (requiring initial review to determine whether petition is facially valid and may be served); see also United States District Court for the District of New Hampshire Local Rules 4.3(d) (authorizing the magistrate judge to preliminarily review pro se pleadings). For the reasons stated below, I deny Cossette's request and order him to further amend his petition.

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<sup>1</sup>As petitioner is in custody at the Northern New Hampshire Correctional Facility ("NCF"), I construe the respondent to be the Warden of the NCF. See Habeas Rule 2 (where petitioner is in custody pursuant to a state judgment, the state officer having custody of the petitioner shall be named as respondent).

On April 2, 2008, I ordered the federal proceedings stayed and the habeas petition held in abeyance, thereby affording Cossette an opportunity to demonstrate exhaustion of state court remedies with regard to the claims raised in the petition and to further demonstrate that the petition was timely filed. In response, Cossette's counsel has filed a two-page submission (document no. 5), broadly alleging that Cossette has demonstrated exhaustion. A broad statement of exhaustion, without any supporting documentation, is insufficient to demonstrate exhaustion of state remedies. Accordingly, counsel's submission is nonresponsive to this Court's order.

Counsel is granted ten days from the date of this Order to (1) demonstrate the federal nature of Grounds Two and Three and to (2) demonstrate exhaustion of state remedies, including the federal nature of each claim, as to Grounds One, Four, Five and Six. Counsel is further ordered to demonstrate the timeliness of each ground raised in the petition. Lastly, counsel is ordered to provide this Court with a copy of the appeal filed with the New Hampshire Supreme Court in 2007 and a copy of the court's dispositive order of March 20, 2008.

Failure to respond to this Order within the allotted time

may result in dismissal of the petition without prejudice.

**Conclusion**

For the reasons stated above, Cossette's request to lift the stay of federal proceedings and review his petition is denied. Cossette is ordered to amend his petition consistent with this order.

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: October 22, 2008

cc: Jean Vanim-Botting, Esquire